

**NO. PD-1319-19**

**IN THE COURT OF CRIMINAL APPEALS OF TEXAS** FILED  
COURT OF CRIMINAL APPEALS  
9/16/2020  
DEANA WILLIAMSON, CLERK

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**CARLOS LOZANO**  
**Defendant/Appellant,**

**v.**

**THE STATE OF TEXAS**  
**Plaintiff/Appellee**

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**FROM THE EIGHTH DISTRICT TEXAS COURT OF APPEALS**  
**CAUSE NUMBER 08-17-00251-CR**

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**MOTION FOR BAIL PENDING APPEAL**

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Kenneth del Valle  
P.O. Box 17303  
El Paso, Texas 79917  
Tel. 915-276-8353  
Bar No.24010960

Now comes Defendant/Appellant, Carlos Lozano, by and through his attorney, Kenneth del Valle, and pursuant to Tex. Code Crim. Proc. Art. 44.02. (h) moves to set reasonable bail pending disposition of this appeal.

In support thereof Defendant/Appellant states as follows:

1. Mr. Lozano's conviction of September 15, 2017 for murder was reversed and remanded for re trial by a decision of a 8th Texas District Court of Appeals in cause number **08-17-00251-CR** and the State filed a Motion for Discretionary Review.

The motion was granted and both parties have final briefs before this Honorable Court.

The status of the case is currently "At Issue" before this Honorable Court.

It is likely that Mr. Lozano will prevail and the matter remanded for re trial as previously ordered by the 8th Texas District Court of Appeals.

2. Although Mr. Lozano fled from the scene at the time of the underlying incident... shortly thereafter, he voluntarily turned himself in to authorities and was released on bail while awaiting trial. Prior to trial Mr. Lozano was out on bail from February 24, 2016 until he was found guilty on September 25, 2017. There were no failures to appear and no violations of conditions of bail while he remained at freedom pending rial.

3. Mr. Lozano is a U.S. citizen and life long resident of El Paso, Texas where he has extended family.

4. Mr. Lozano has a place to reside in El Paso – with his disabled mother for whom he is sole support and care giver.

5. Under these circumstances the statute states:

“... the defendant, if in custody, is entitled to release on reasonable bail, *regardless of the length of term of imprisonment, pending final determination of an appeal by the state or the defendant on a motion for discretionary review.* If the defendant requests bail before a petition for discretionary review has been filed, the Court of Appeals shall determine the amount of bail. If the defendant requests bail after a petition for discretionary review has been filed, the Court of Criminal Appeals shall determine the amount of bail. The sureties on the bail must be approved by the court where the trial was had. The defendant's right to release under this subsection attaches immediately on the issuance of the Court of Appeals' final ruling as defined by Tex.Cr.App.R. 209(c).” (Italics mine)

6. Mr. Lozano can make a \$50,000.00 bail.

7. Mr. Lozano poses no risk of flight nor is he a danger to the community.

8. Mr. Lozano has no prior criminal history. His defense at trial was self defense. He was convicted due to erroneous jury instructions that did not reflect the current state of the law.

9. Mr. Lozano holds a certificate as a Master Mechanic and has been

employed since graduating from high school. He will easily find employment if granted bail.

10. Mr. Lozano is well aware that should this Honorable Court see fit to grant him reasonable bail – that his behavior until the time of re trial as ordered by the 8th Texas District Court of Appeals will weigh heavily upon his chances of ultimate exoneration.

**Wherefore**, Defendant/Appellant, Carlos Lozano prays this Honorable Court grant him reasonable bail.

Respectfully submitted,

/s/ Ken del Valle

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#### CERTIFICATE OF SERVICE

I, Kenneth del Valle, an attorney, do hereby certify that on September 14, 2020 I caused to be filed the above document through the Texas E File system that will notify all parties entitled to service and notice of filing.

/s/ Ken del Valle

Kenneth del Valle

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Associated Case Party: Carlos Lozano

<b>Name</b>	<b>BarNumber</b>	<b>Email</b>	<b>TimestampSubmitted</b>	<b>Status</b>
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#### Case Contacts

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